

EXHIBIT 17

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION

IN RE PACIFIC FERTILITY)
 CENTER LITIGATION,) Case No. 3:18-cv-01586-JSC
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)
 _____)

CONFIDENTIAL
 VIDEOTAPED & VIDEOCONFERENCED
 DEPOSITION of ERIN FISCHER
 August 27, 2020

CHERREE P. PETERSON, RPR, CRR, CSR
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13 VIDEOTAPED & VIDEOCONFERENCED DEPOSITION of
14 ERIN FISCHER, taken on behalf of Plaintiffs remotely
15 beginning at 9:36 a.m., Thursday, August 27, 2020,
16 before CHERREE P. PETERSON, RPR, CRR, Certified
17 Shorthand Reporter No. 11108.
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THE VIDEOGRAPHER:

PHILIP KNOWLES

1 A. Yes.

2 Q. What follows from here is a discussion about
3 how to actually pour the LN2 into the neck of the
4 storage tank; correct? The subaddress A through D?

17:21 5 A. Yes.

6 Q. And in B it says to -- or excuse me -- in A it
7 says it's recommended to use one's legs rather than
8 one's back to lift the tank; correct?

9 A. Yes.

17:21 10 Q. Now, when you are lifting -- when they're
11 saying lifting the tank, are they referring to the dewar
12 itself, the small dewar --

13 A. Yes.

14 Q. -- or the tank?

17:21 15 MR. TARANTINO: Objection. Calls for
16 speculation. Foundation. Vague.

17 THE WITNESS: I don't know. I don't think
18 they're lifting the actual tank with storage tissue off
19 the ground. But again, we wouldn't be using a portable
17:21 20 tank. We would have a bucket which is much lighter.

21 Q. BY MR. DUFFY: Okay. So when filling the small
22 dewars, would you use a bucket sounds like?

23 A. Yes.

24 Q. And where do you fill that bucket before you
17:22 25 fill the small dewar?

1 A. Where in the building or what?

2 Q. Well, the small dewars are kept in the tank
3 room; is that right?

4 A. There are some in the tank room, and there are
17:22 5 some in the IVF lab.

6 Q. Okay. Is there a liquid nitrogen supply tank,
7 a filler as you've been talking about today, in the IVF
8 lab?

9 A. No.

17:22 10 Q. So the filler tanks and the supply tanks are
11 only in the tank room; correct?

12 A. Typically, yes.

13 Q. So if you were going to go fill the small
14 dewars, you would have to go into the tank room with the
17:22 15 bucket and fill the bucket with liquid nitrogen;
16 correct?

17 A. Yes. We frequently get buckets of liquid
18 nitrogen from the supply room -- or the storage room.

19 Q. And you go over to the small dewar and take off
17:22 20 the cap; correct?

21 A. Yes.

22 Q. And then you take the liquid nitrogen and you
23 just pour it into the neck; correct?

24 A. Yes.

17:23 25 Q. Okay. In the tank room were there separate

1 hoses that also allowed you to fill at least a certain
2 distance of the hose, using the hose to do a fill on
3 top -- inside the top of the tank?

4 MR. TARANTINO: Objection. Vague and
17:23 5 ambiguous.

6 THE WITNESS: Yes. We have filler hoses in the
7 tank room.

8 Q. BY MR. DUFFY: How many are there?

9 A. It depends how many supply tanks are in there
17:23 10 at the time. But hooked up to the system, I believe
11 there's one. And then there could be two more hooked up
12 to tanks.

13 Q. BY MR. DUFFY: Okay. And it just depends how
14 many supply tanks you have at the time?

17:23 15 A. Yes.

16 Q. So the plumbing, as I understand it, has a
17 connection between the supply tank and, for example, a
18 large tank. But there's also another part of the
19 plumbing that comes off that you can use to do a manual
17:24 20 fill; correct?

21 MR. TARANTINO: Objection. Lacks foundation.

22 THE WITNESS: Yes.

23 MR. TARANTINO: Vague.

24 THE WITNESS: There was at one point. I'm not
17:24 25 sure that that hose is still attached actually.

1 Q. BY MR. DUFFY: Okay. But in March of 2018
2 would you have had that feature still available?

3 MR. TARANTINO: Objection. Vague.

4 THE WITNESS: I think so, yes.

17:24 5 Q. BY MR. DUFFY: Was Tank 4 close enough in March
6 of 2018 to be able to use one of those hose from the
7 supply tank to do a manual fill through the top?

8 MR. TARANTINO: Objection. Vague. Calls for
9 speculation.

17:24 10 THE WITNESS: No. Tank 4 was in the IVF lab.

11 Q. BY MR. DUFFY: Oh, that's right. That's right.
12 Thank you. So you would -- if you wanted to do a manual
13 fill for Tank 4, you would have had to go into the tank
14 room and fill up a bucket with liquid nitrogen; correct?

17:24 15 MR. TARANTINO: Objection. Misstates
16 testimony. Vague.

17 THE WITNESS: That is one way. You could also
18 pull the entire tank into the lab and fill it with the
19 hose.

17:25 20 Q. BY MR. DUFFY: Sure. Did you ever see anybody
21 wheel Tank 4 out of the IVF lab and into the tank room
22 just to perform a fill?

23 A. No. That's not what I said. I said to pull
24 the supply filler tank into the lab and fill the tank.

17:25 25 Q. Okay. Did you ever see anybody do that between

1 February 15 and March 4 of 2018?

2 A. No.

3 Q. Would you -- as an experienced embryologist
4 since 2005 in the lab, would you if you had to do a
17:25 5 manual fill of Tank 4 in the IVF lab, would you use a
6 bucket rather than wheeling in the supply tank?

7 MR. TARANTINO: Objection. Vague.

8 THE WITNESS: Yes.

9 MR. TARANTINO: Foundation. Incomplete
17:25 10 hypothetical.

11 Q. BY MR. DUFFY: It's easier; right?

12 A. Yes.

13 MR. TARANTINO: Objection.

14 Q. BY MR. DUFFY: When -- are there other
17:25 15 equipment in the IVF lab where in order to do a fill of
16 liquid nitrogen you have to use the bucket?

17 MR. TARANTINO: Objection. Lacks foundation.

18 THE WITNESS: We use the bucket to fill
19 Styrofoam containers for day-to-day operations.

17:26 20 Q. BY MR. DUFFY: I understand. Other than those
21 day-to-day operations for procedure-based work that
22 you're doing, any other equipment that you would have to
23 take a bucket, fill it with liquid nitrogen in the tank
24 room, and then bring it back into the IVF lab?

17:26 25 MR. TARANTINO: Objection. Vague.

1 THE WITNESS: No.

2 Q. BY MR. DUFFY: So that I can get an
3 understanding of the physical layout of the IVF lab and
4 how it was that a supply tank was connected to Tank 4,
17:26 5 can you describe for me how that was done? If it's
6 sitting in the IVF lab, how did it get a connection to a
7 supply tank?

8 MR. TARANTINO: Objection. Mischaracterizes
9 testimony. Vague. Ambiguous.

17:26 10 THE WITNESS: So there's piping that goes from
11 that room across the hall into the IVF lab and then
12 that's connected to all the tanks in the lab.

13 Q. BY MR. DUFFY: During the period between
14 February 15 and March 4 of 2018, did you have occasion
17:28 15 to plug in and power on the controller at Tank 4?

16 A. I don't remember if I specifically plugged in
17 the controller during that time.

18 Q. Do you have a personal memory of anybody else
19 doing it in that period of time?

17:28 20 A. Yes, I do.

21 Q. And who was that?

22 A. I don't remember who specifically plugged it
23 in, but I remember it because it was a alarming.

24 Q. And did you have a chance to then look at the
17:28 25 controller to see what alarm was displaying?

1 DEPOSITION OFFICER'S CERTIFICATE

2 (Civ. Proc. § 2025.520(e))

3 STATE OF CALIFORNIA)
 4) ss
 COUNTY OF CONTRA COSTA)

5
 6 I, CHERREE P. PETERSON, hereby certify:

7 I am a duly qualified Certified Shorthand
 8 Reporter, in the State of California, holder of
 9 Certificate Number CSR 11108 issued by the Court
 10 Reporters Board of California and which is in full force
 11 and effect. (Fed. R. Civ. P. 28(a)).

12 I am authorized to administer oaths or
 13 affirmations pursuant to California Code of Civil
 14 Procedure, Section 2093(b) and prior to being examined,
 15 the witness was first duly sworn by me. (Fed. R. Civ.
 16 P. 28(a), 30(f)(1)).

17 I am not a relative or employee of any attorney
 18 or counsel of any of the parties, nor am I a relative or
 19 employee of such attorney or counsel, nor am I
 20 financially interested in this action. (Fed. R. Civ. P.
 21 28).

22 I am the deposition officer that
 23 stenographically recorded the testimony in the foregoing
 24 deposition and the foregoing transcript is a true record
 25 of the testimony given by the witness. (Fed. R. Civ. P.

1 30(f)(1)).

2 Before completion of the deposition, review of
3 the transcript (xx) was () was not requested. If
4 requested, any changes made by the deponent (and
5 provided to the reporter) during the period allowed, are
6 appended hereto. (Fed. R. Civ. P. 30(e)).

7
8 Dated: September 10, 2020

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